"Black Bag" Break-Ins Case

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Bell Deals Mildly With Accused FBI Agent

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Attorney General Griffin B. Bell rejected a recommendation that a high-ranking FBI official be indicted for perjury last year, and instead personally asked the veteran agent to correct his sworn testimony.

The appeal to J. Wallace LaPrade, head of the FBI's large New York field office, illustrates the problems Bell has faced in his dual role of overseeing the FBI and the investigation of alleged illegal break-ins by FBI agents during the early 1970s.

He is expected to announce his decisions on further prosecutions in these so-called "black bag" cases early this week.

The attorney general told LaPrade, according to sources familiar with the meeting, that he didn't want to indict an FBI agent — especially not for perjury — because it would reflect badly on all FBI agents who are called to testify in court cases.

Bell is known to view his brief encounter with LaPrade as a sincere effort to find the truth about who authorized the break-ins and surveillance of radical fugitives.

But his conduct in the episode concerns some Justice Department attorneys because it can be viewed as an example of a double standard of justice, of special treatment for an FBI agent that would not be afforded the average citizen.

Prosecutors sometimes permit witnesses to change their grand jury testimony. But it is considered unusual for the Justice Department to initiate such proceedings after a recommendation to prosecute has been made.

It is even more unusual for the attorney general to make such an appeal personally.

LaPrade's potentially perjurious testimony was given to a federal grand jury in New York in January 1977.

A civil rights division task force then heading the investigation recommended to Bell a few months later that LaPrade be charged with perjury as part of a first wave of indictments in the investigation.

Bell chose at the time, however, to obtain the indictment only of John J. Kearney, a field supervisor who worked for LaPrade, in connection with alleged mail-openings and wiretaps.

LaPadre was named as an unindicted co-conspirator.

That April indictment triggered a storm of protest by FBI agents and their supporters and it is generally considered that Bell then began to question the course of the investigation.

About the same time, Bell met privately with another potential defendant, assistant FBI director Andrew J. Decker. They had a general discussion of the case without either Bell's prosecutors or Decker's lawyer present, a breach of legal decorum that the attorney general now acknowledges was incorrect.

Bell said in a recent interview that criticism of the Decker meeting was justifiable. "I remember I was sort of startled myself when I ended up talking [with him]," he said.

But the attorney general rejected the suggestion that he had to be especially careful of appearances in such a sensitive internal investigation.

"It's only the weak people who lean over backwards against their own people," he said. "I'm not so lacking in confidence as that."

Bell made increasingly critical comments about the civil rights team's investigation in the months after the Kearney indictment. And he began to urge that LaPrade be recalled and given a chance to change his earlier testimony, sources said.

Finally, in early December, LaPrade and his New York attorney, Thomas Bolan, met at the Justice Department with Benjamin R. Civiletti, head of the criminal division, and other Justice attorneys.

Bell joined the meeting for only a few minutes to make his personal appeal for LaPrade to tell the truth, according to sources.

It was also in early December that the five-member civil rights division team asked to be taken off the case because of what were said to be differences in strategy.

A new 10-member task force took over and began concentrating on high-level officials at FBI headquarters who may have approved the break-ins. Bell has been considering their recommendations for the past few weeks.

There have been indications, first reported in The Los Angeles Times, that the task force recommended some kind of prosecutions of former FBI Director L. Patrick Gray III, as well as W. Mark Felt, the former No. 2 man in the bureau, and Edward S. Miller, who was head of the FBI's domestic security division during the period of the break-ins.

Justice is reported to have proposed that the men plead guilty to minor charges of civil rights violations. LaPrade's case is expected to be handled through a disciplinary proceeding, perhaps even dismissal.

Associated Press

J. Wallace LaPrade, left, was asked by the attorney general to alter his testimony.

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